

# PLANNING COMMISSION REPORT



MEETING DATE: April 19, 2006

ITEM NO. \_\_\_\_\_ GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT **Dusenberry Residence - 7-AB-2006**

REQUEST Request to consider the following:  
1. Abandon a 30-45 foot wide right-of-way along a drainage channel.  
2. Dedicate a Drainage Easement to replace the right-of-way.

OWNER/APPLICANT John Dusenberry  
CONTACT 480-922-7783

LOCATION 7046 E Paradise Drive

BACKGROUND

## **Background.**

The subject right-of-way is 30 to 45 feet wide and was acquired by the City of Scottsdale in the early 1990s as a part of the Cactus Road improvements.

When considering this channel and how it was handled on other nearby properties in the neighborhood, this property was treated in a unique way. The channel was acquired as a right-of-way and not as an easement. It is not clear in the correspondence and records on this acquisition as to why this was done. On the lot across Paradise Drive to the south, the channel was established through a drainage easement and drainage easements continue further south through the neighborhood.

Some of the correspondence sent to the owner at the time of the acquisition suggests that we were looking to acquire an easement. The difficulty that occurs with establishing a right-of-way is that this creates new front yard setbacks and since this channel runs through the middle of the lot this creates significant difficulty in the use of the lot.

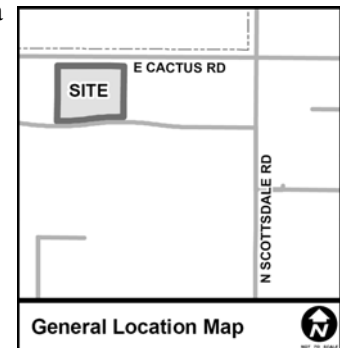
## **Zoning.**

The site is zoned R1-35. The R1-35 zoning district allows for single family and neighborhood uses.

## **Context.**

Adjacent Uses and Zoning:

- North Cactus Road and then one-acre lots within the City of Phoenix
- South Single family residence zoned R1-35
- East Single family residence zoned R1-35 and R1-18
- West Single family residence zoned R1-35



APPLICANT'S  
PROPOSAL**Goal/Purpose of Request.**

This request is to eliminate the existing right-of-way located along a drainage channel that crosses a single-family lot. This abandonment would allow for the reasonable use of the single-family parcel by eliminating extensive and restrictive front yard setbacks internally within the lot.

**Key Issues.*****CITY IMPACT:***

- Dedicates – A Drainage Easement that secures the function and maintenance of the channel will be retained.
- This right-of-way is not needed for access purposes.

***NEIGHBORHOOD IMPACT:***

- There would be no change to the function of the channel.
- The opportunity to improve the property and increase the size of the residence would be enhanced. Revitalization of properties in this area has been occurring over the past few years. This lot is more restricted than adjacent lots because of the large amount of front yard setbacks required.

***PROPERTY OWNER IMPACT:***

- The property owner would be better able to enlarge or rebuild the residence as well as add accessory functions such as horse facilities, a guest house or a studio/workshop. Such uses are fairly common in this neighborhood given the larger size of these lots.

**Community Impact.**

- There would be no significant community impacts.

## IMPACT ANALYSIS

**Departmental Responses.**

The City Right-of-Way and Trails Divisions concur with this abandonment request. See Department Issues Checklist (Attachment #1).

**Open space, scenic corridors.**

There are no city designated corridors that would affect this property.

**Policy Implications.**

This is a unique situation that is not even typical for this neighborhood.

**Community Involvement.**

The applicant has been in contact with his neighbors and no opposition has arisen.

STAFF  
RECOMMENDATION**Recommended Approach:**

Staff recommends approval subject to the attached stipulations.

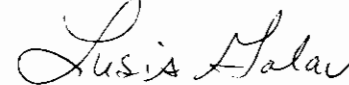
RESPONSIBLE  
DEPT(S)**Planning and Development Services Department**

**STAFF CONTACT(S)**

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**APPROVED BY**

  
\_\_\_\_\_  
Don Hadder  
Report Author

  
\_\_\_\_\_  
Lusia Galav, AICP  
Current Planning Director

**ATTACHMENTS**

1. Departmental Checklist
2. Context Aerial
3. Detail Aerial
4. Zoning Map
5. Easements and Right-of-Ways Map
6. Easements and Right-of-Way on the Property
7. Area Trails Plan
8. Stipulations
9. City Notification Map
10. Current setbacks for the property
11. Setbacks for the property if the abandonment is approved
12. Photos of the site.

# CASE 7-AB-2006

## Department Issues Checklist

### Transportation



**Support**

This right-of-way is not needed for access and its construction would not allow for access.

### Trails



**Support**

There is a trail along Cactus Road on the north side of the lot. No access could be achieved to this trail from the channel because of the channel design.

### Adjacent Property Owner Notification



**Support**

No opposition has been received.

### Public Utilities



**Support**

There are no utilities within the channel.

### Emergency/Municipal Services



**Support**

As long as there is an easement that secures the right to maintain the channel this application can be supported. Local access to this facility should be discouraged since it was not designed as a recreation facility.

### Water/Sewer Services



**Support**

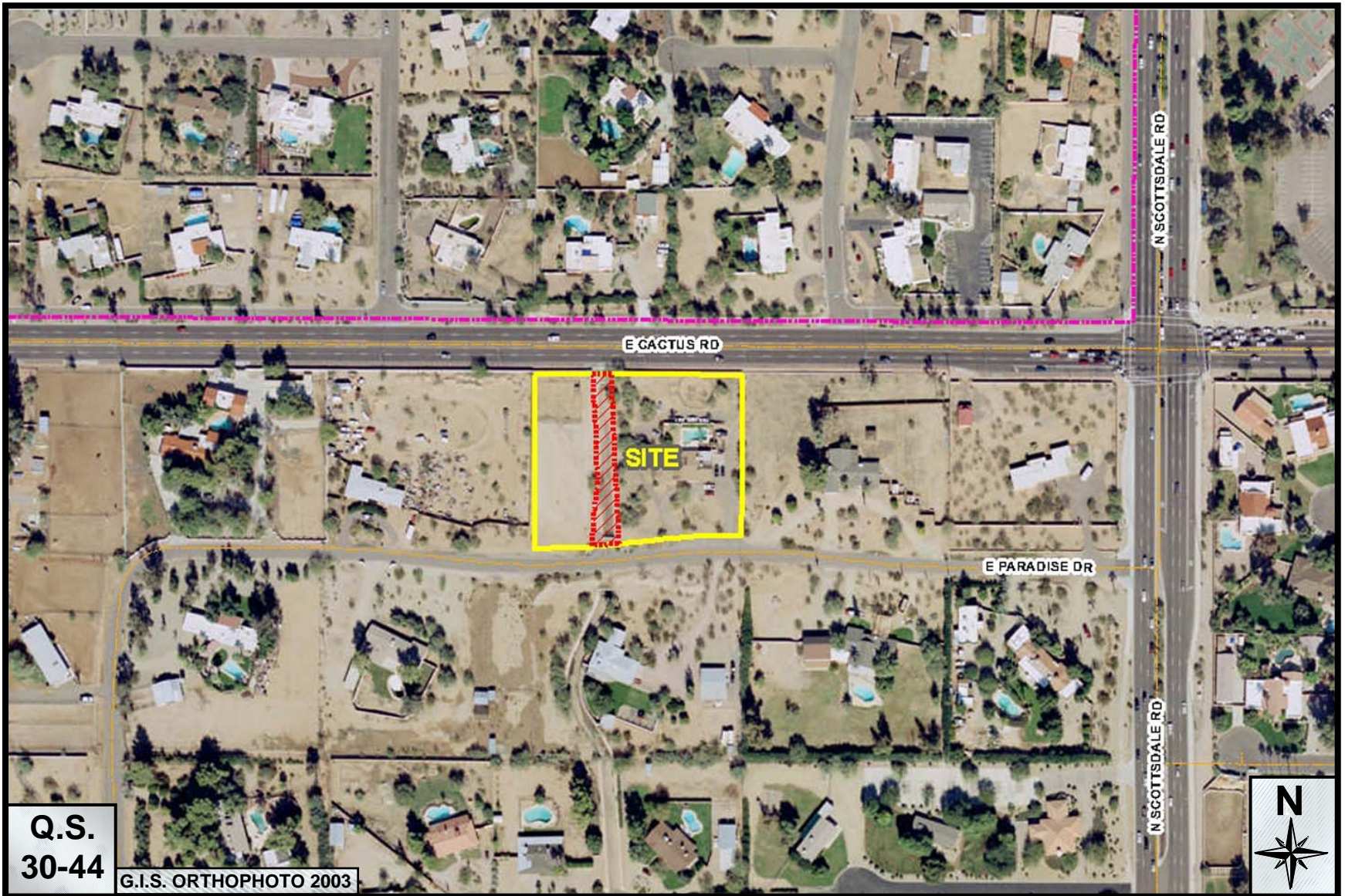
There are no water or sewer services within the channel area.

### Drainage





**Support**

(See comments above for Emergency/Municipal Services)



Dusenberry Residence

Legend

-  Drainage ROW to be Abandoned
-  Site

7-AB-2006

ATTACHMENT #2







Q.S.  
30-44

G.I.S. ORTHOPHOTO 2003



Dusenberry Residence

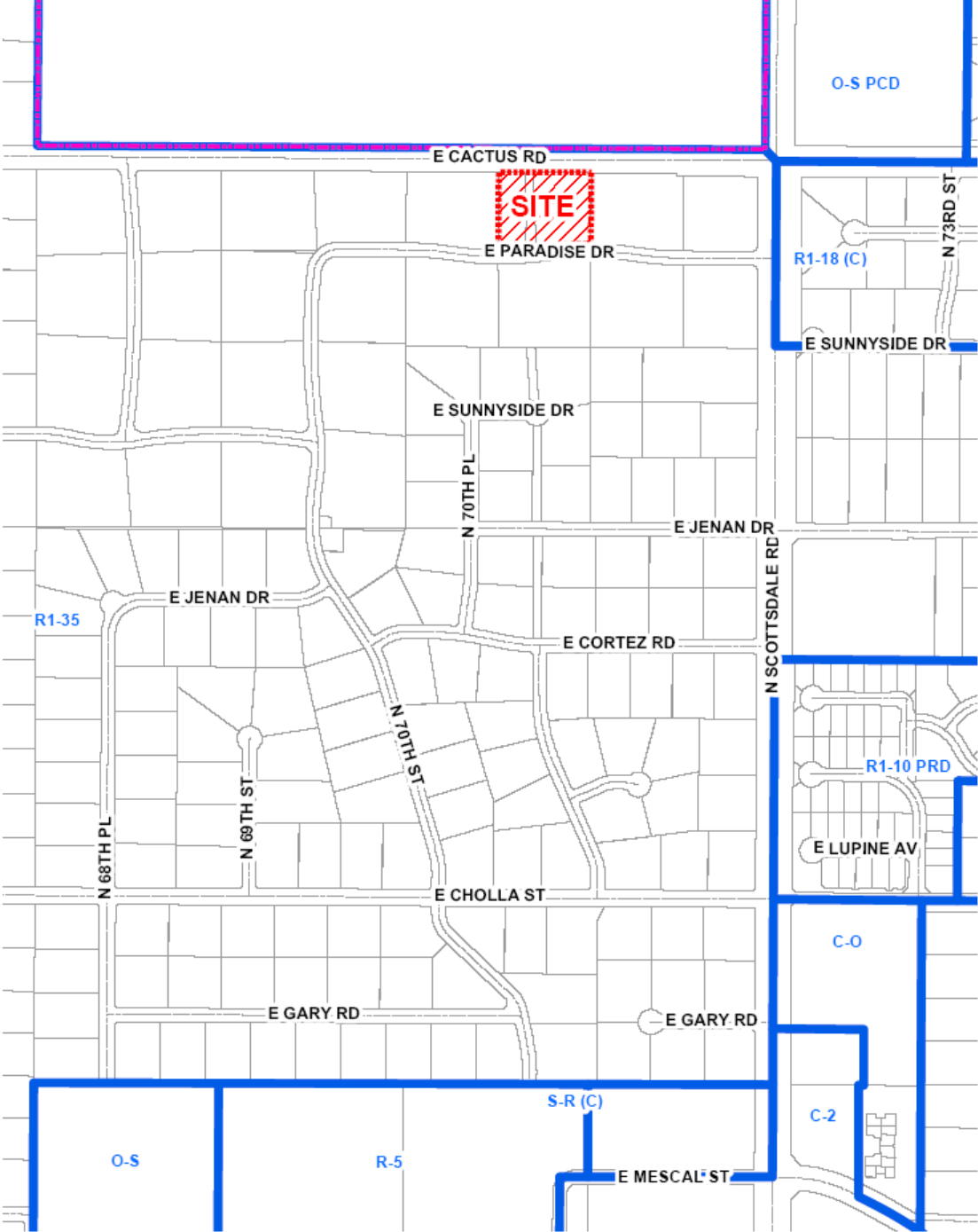
Legend

-  Drainage ROW to be Abandoned
-  Site

7-AB-2006

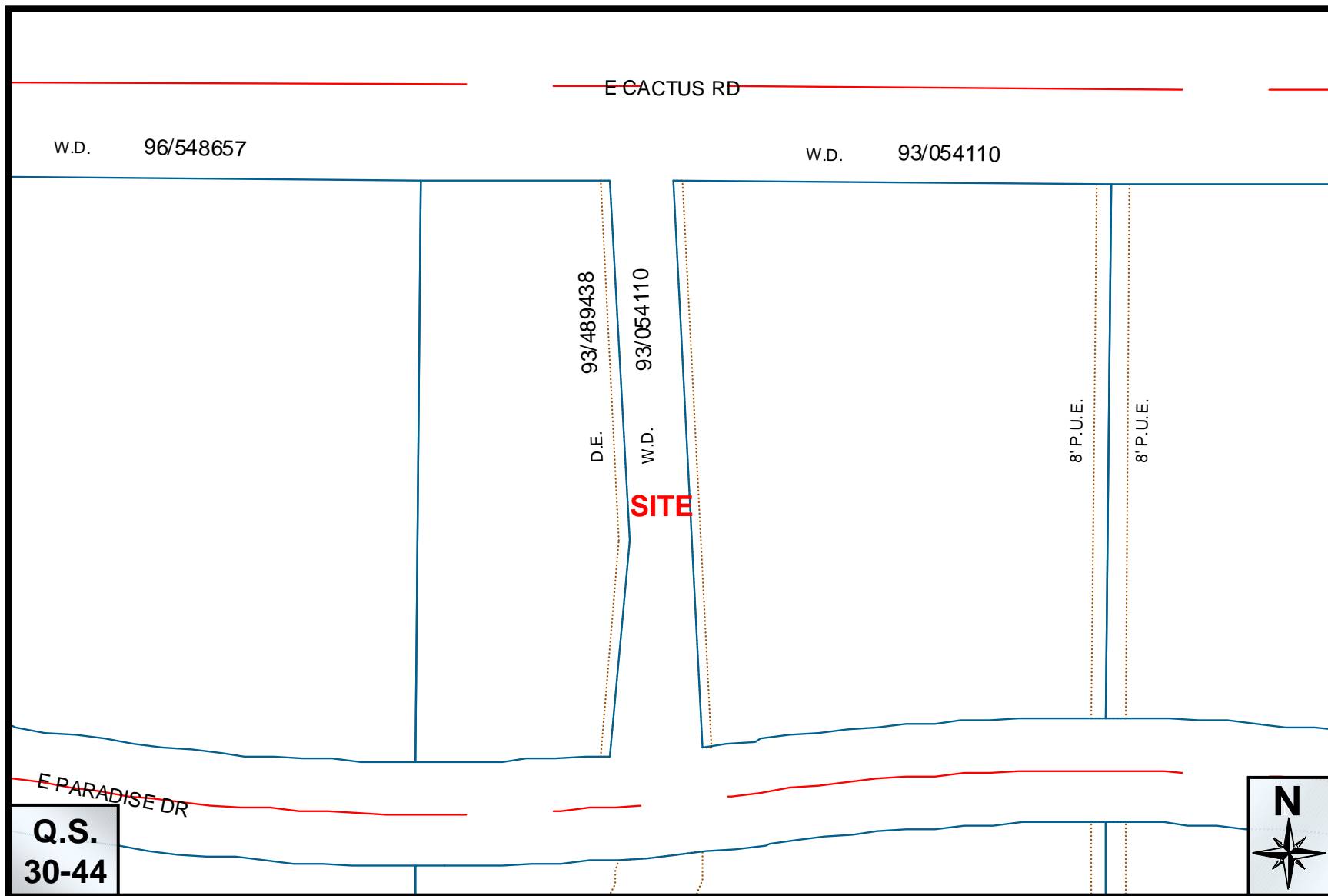
ATTACHMENT #3

# Zoning Map



## Easements & Right-of-Way ATTACHMENT #5



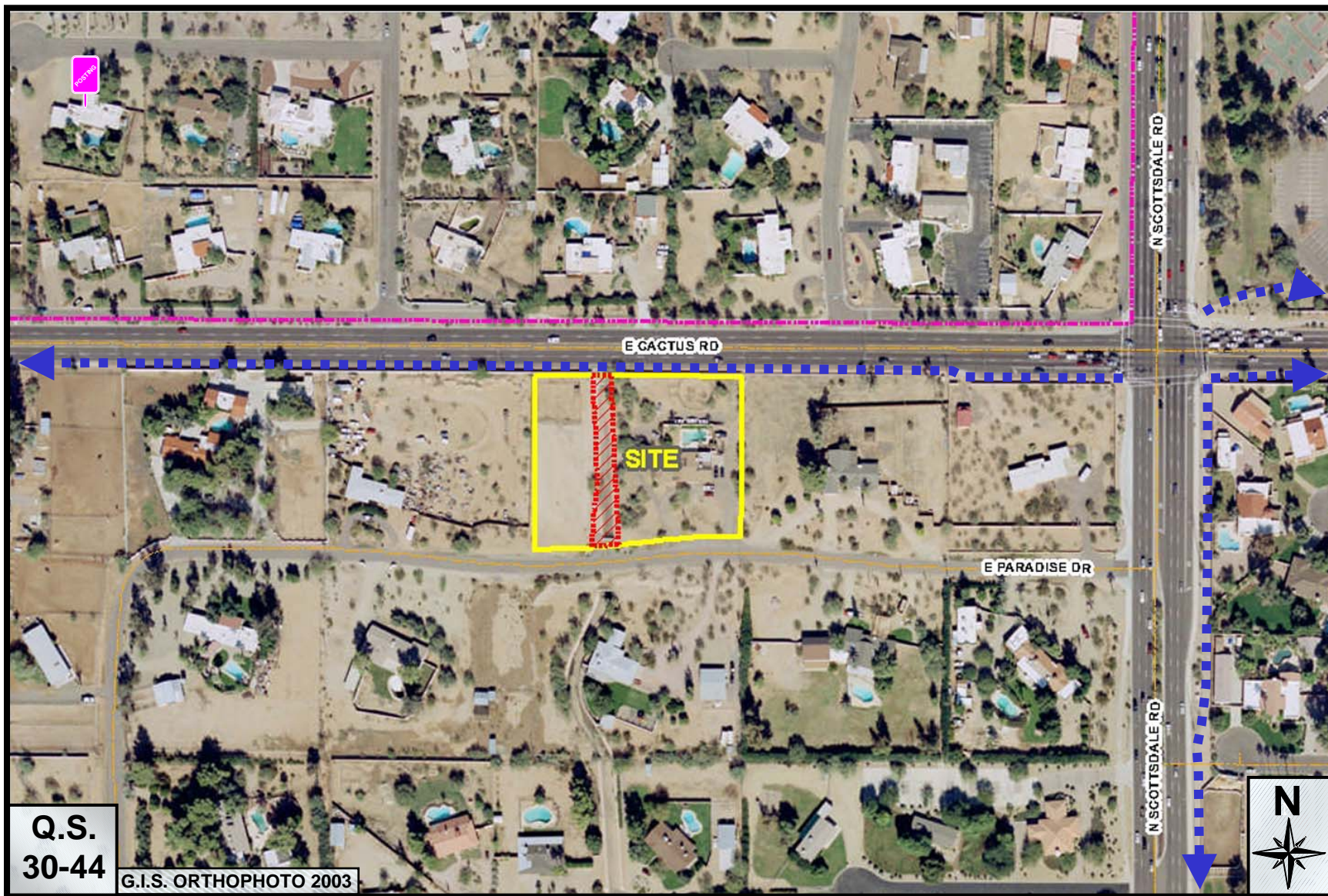


Dusenberry Residence

Legend  
Parcel  
GLO  
Street




**7-AB-2006**

Easements & Right-of-Way  
Attachment #6



# Dusenberry Residence

## Legend

-  Drainage ROW to be Abandoned
-  Site
-  Multi-Use Trails

**7-AB-2006**

**ATTACHMENT #7**

### **STIPULATIONS FOR CASE 7-AB-2006**

1. A Drainage Easement as determined by the city shall be recorded concurrently with the abandonment of the right-of-way.
2. Access across the drainage channel shall be limited to the northern fifty (50) feet of the Drainage Easement and shall be subject to the approval of the Drainage, Engineering and Maintenance Division of the City of Scottsdale.



# Dusenberry Residence



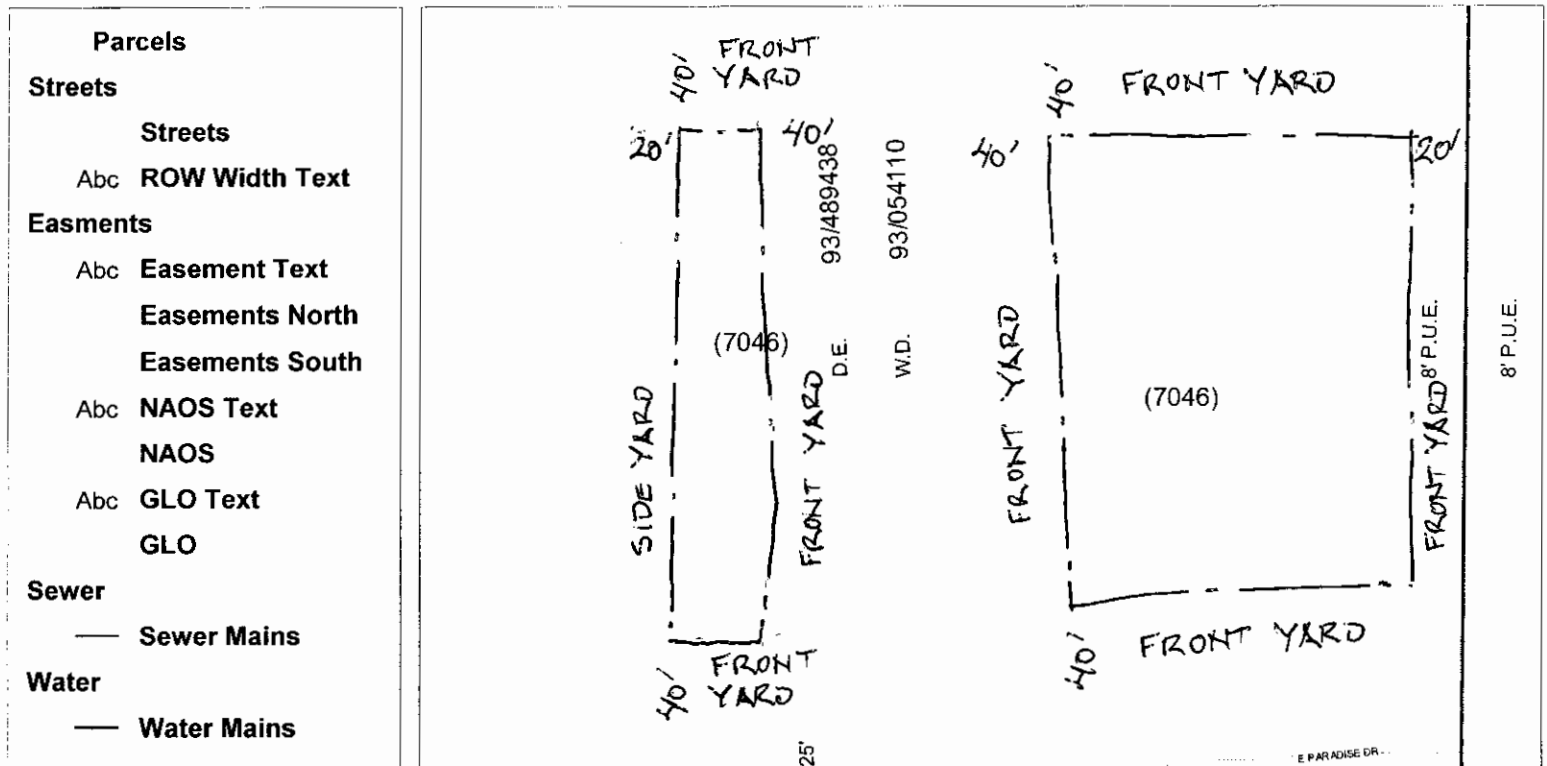
**ATTACHMENT #9**



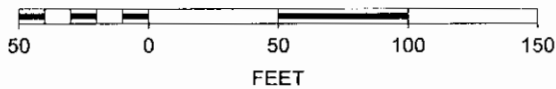
- Interested Parties
- Buenavante
- Coalition of Pinnacle Peak (C.O.P.P.)

# Map1

CURRENT SETBACKS



SCALE 1 : 894

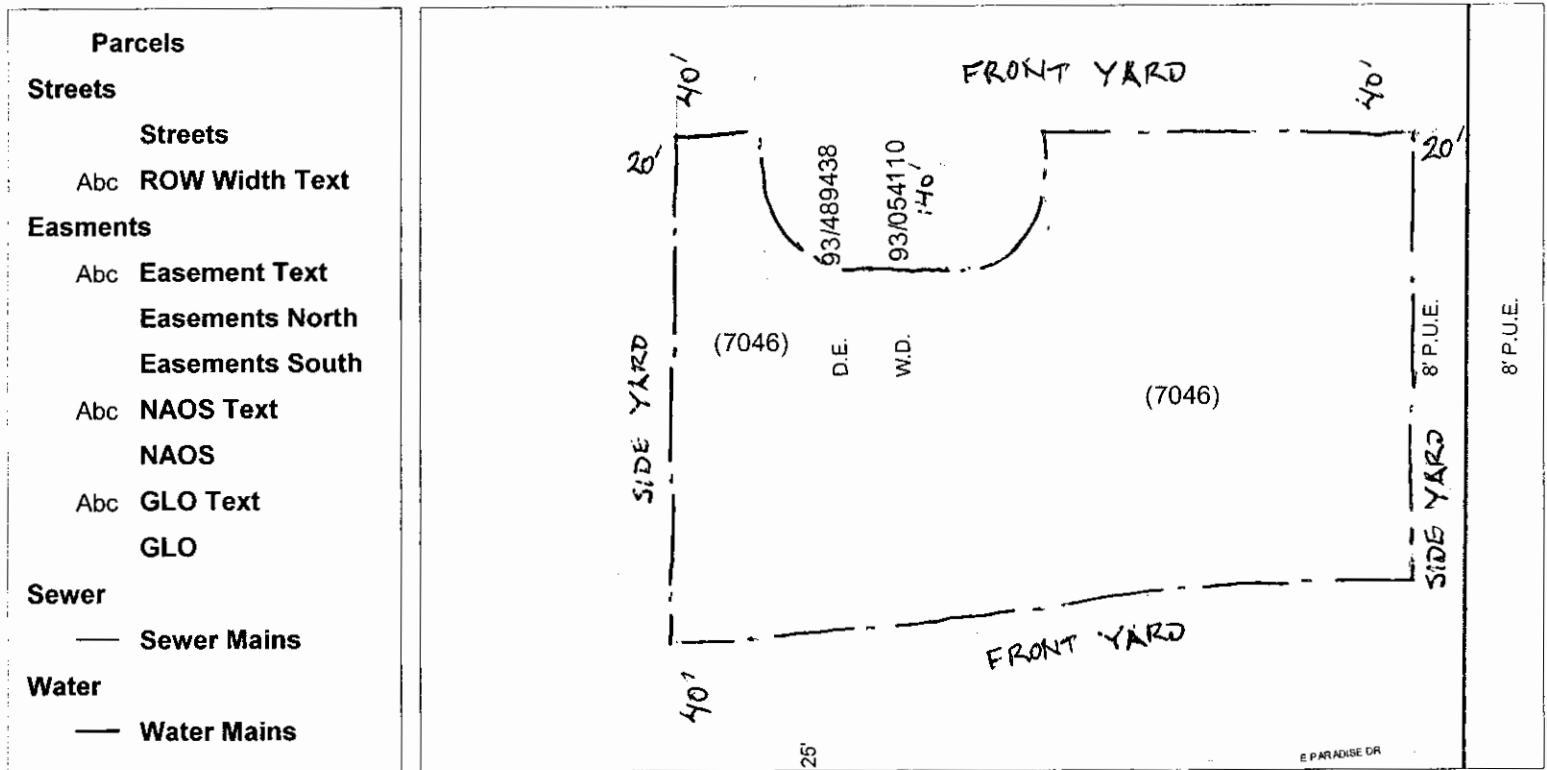


ATTACHMENT #10

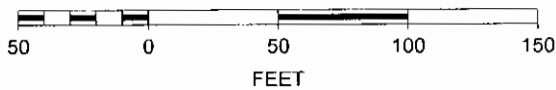


# Map1

## SETBACKS AFTER ABANDONMENT



SCALE 1 : 894



ATTACHMENT #11



**TOP PHOTO: STORM SEWER INLET AT SUNNYSIDE**



**CHANNEL IN LOT ACROSS PARADISE DR. FROM SUBJECT PROPERTY**



**PHOTOS OF CHANNEL ON SUBJECT PROPERTY**



**TOP PHOTO: CHANNEL SOUTH OF SUNNYSIDE  
(96 INCH PIPE UNDERNEATH SHALLOW SWALE)**



**CHANNEL NORTH OF SUNNYSIDE**





**OPENING FOR CHANNEL ON SOUTH SIDE OF CACTUS**